



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II

290 BROADWAY

NEW YORK, NEW YORK 10007-1866

### **Regarding the Lightstone Group proposal at the former Toll Brothers property**

EPA is periodically contacted by potential developers of properties near the Gowanus Canal having questions regarding EPA's anticipated cleanup of the Canal, whether contamination is present on such properties and about the scope of Superfund liability.

Three parcels, 400 Carroll Street, 363 Bond Street and 365 Bond Street, commonly known as the former Toll Brothers property, were previously re-zoned as residential by New York City. An initial phase of sampling was done for Tolls Brothers' proposed cleanup and redevelopment.

During EPA's 2010 Remedial Investigation (RI), EPA installed a series of groundwater monitoring wells at parcels along the canal where historic industrial activity could have resulted in contamination. EPA installed such wells at 400 Carroll Street and 365 Bond Street, the former location of two fuel terminals. EPA's wells identified an area of deep subsurface contamination at 400 Carroll Street. At the time that EPA's RI report was released, EPA also recommended that additional sampling be conducted at the Toll Brothers parcels prior to redevelopment to ensure a thorough cleanup.

In 2011, in consultation with EPA, the owners of 400 Carroll Street did further sampling to delineate the area of concern to EPA. Sampling results to date indicate that although this area of contamination is small, localized, and at a depth (20+ feet below the water table) that would not impact future development of the site, it could never the less impact the Canal sediment through migration.

The owners of 400 Carroll Street subsequently indicated to EPA that they were prepared to address this minor hotspot through a new engineered bulkhead that is sealed at the appropriate depth and will isolate the contamination from entering the Canal and prevent Canal contamination from entering the property. The owners also agreed to address under NYSDEC and NYCOER oversight the remainder of the sites, including any other areas of contamination.

Recently the Lightstone Group indicated to EPA that they are prepared to conduct that work at 400 Carroll Street as well as any necessary additional sampling and cleanup work on the other two parcels under the oversight of EPA and NYSDEC. We have recently reviewed and commented on a delineation work plan and will continue to work with the Lightstone Group to properly delineate and scope the remediation of any significant contamination on the properties. The work would likely be conducted pursuant to an EPA administrative order which would provide Superfund liability protection in addition to that available under Superfund's "Bone Fide Prospective Purchaser" provisions.

EPA supports the cleanup of contaminated sites along the Canal which would result in returning land to productive use. EPA's primary role in site cleanups along the Canal is to ensure that continuing sources of contamination to the canal are addressed.

As with Lightstone's proposal, it also beneficial to restore the deteriorating bulkheads that permit contaminants to enter the canal and separate the combined storm and sanitary discharges from upland properties. EPA does not have a role in determining land use for such properties nor does EPA take a position on the appropriateness of a given redevelopment proposal. State and city agencies normally have the lead for determining the level of cleanup necessary for a given land use project. EPA, however, routinely consults with those agencies when EPA identifies any potential concerns.

Although EPA believes that cleanup work is necessary at the Lightstone parcels and has been working cooperatively with the project sponsor to accomplish this, EPA does not consider these three parcels to be significant sources compared to other contaminated locations along the Canal. If implemented, this work would control one of the smaller upland sources to the Canal and eliminate the time and expense of installing temporary sheet piling to prevent bulkhead collapse along these parcels during future remedial dredging.

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